

July 24, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L97RZ001**

SOUTHLAND CORPORATION
Application for Zone Reclassification

Location: 13915 SE Petrovitsky Road

Applicant: Southland Corporation
18000 - 72nd Avenue South, #206
Kent, WA 98032

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve
Department's Final:	Approve
Examiner:	Approve

PRELIMINARY MATTERS:

Application submitted: January 15, 1997
Notice of complete application: February 11, 1997

EXAMINER PROCEEDINGS:

Hearing Opened: July 17, 1997
Hearing Closed: July 17, 1997

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

No significant issues.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner: Southland Corporation
18000 - 72nd Avenue South, #206
Kent, WA 98032

Agent: Amy Kosterlitz
Buck and Gordon
1011 Western Avenue
Seattle, WA 98104

STR: SW-27-23-05

Existing Zoning: R-48 (Urban Residential, 48 units per acre, with P-suffix conditions)

Requested Zoning: CB-P (Community Business with P-suffix conditions)

Size: .5 acres

Location: At the southwest corner of SE Petrovitsky Road and 140th Avenue SE

Request: A zone reclassification from R-48-P to CB-P

Proposal: To rezone .5 acres to allow a change of use of an existing office building for retail uses or other uses permitted in the CB zone

Community Plan
Area: Soos Creek

Comprehensive Plan
Designation: Community Business Center

2. Applicant Southland Corporation, represented by Attorney Amy Kosterlitz, seeks to reclassify a parcel comprising approximately 0.5 acres from R-48-P¹ to CB-P². The property at issue comprises the western half of an (approximately) one-acre site owned by Southland Corporation, located on the southwest corner of the SE Petrovitsky Road/140th Avenue SE intersection. The eastern half of the property is already classified CB-P. The one-acre site,

¹Urban Residential, 48 units per acre, with P-suffix conditions

²Community Business with P-suffix conditions

including the western half which is subject to this review, is developed with a self-service gas station, a convenience store, and a one-story office building. The convenience store, located in the eastern CB-P classified portion of the property (and the office, located in the western, R-48-P portion of the property) are connected by a common wall which coincides with the zoning classification boundary line which divides these two portions of the ownership.

3. The Department of Development and Environmental Services (the "Department", or "DDES") recommends that the requested reclassification to CB-P be approved. The "P-suffix" portion of that reclassification recommendation³ would remain unchanged from those P-suffix conditions which presently apply to the property.
4. No agency or other interested person has indicated any adverse interest in this request.
5. The facts and analysis contained in the Department's Preliminary Report dated July 17, 1997 are correct and are incorporated here by reference. A copy of the Department's Report will be attached to those copies of this Examiner's Report which are submitted to the King County Council.

CONCLUSIONS:

1. The Department correctly cites KCC 21A.44.060 and KCC 20.24.180 and KCC 20.24.190.D as the applicable criteria by which this zone reclassification request should be measured.
 - A. KCC 21A.44.060 requires that the reclassification be consistent not only with the code citations cited above but also with the Comprehensive Plan and applicable Community Plan and functional plans. The applicant's proposal is consistent with the King County Comprehensive Plan. The requested zone reclassification will be consistent with the goals and objectives for a community business center as stated in the Comprehensive Plan and will not require a Comprehensive Plan Map Amendment. The applicant does not propose to amend or modify the existing P-suffix conditions applicable to the property.
 - B. KCC 20.24.180 requires that the Examiner enter findings of fact and conclusions from the record which support the recommendation. Those findings and conclusions are required to demonstrate the manner in which the decision or recommendation is consistent with applicable law, regulation and policy. The Department has competently undertaken that review and has incorporated the requisite findings in its Report (Exhibit No. 1). That review is incorporated in this Report pursuant to Finding No. 5. See, particularly, pages 4 and 5 of the Department's Report.
 - C. The requested reclassification is consistent with KCC 20.24.190.D for the following reasons:
 - Adoption of the 1994 Comprehensive Plan imposed a significant changed

³A P-suffix classification contains site-specific site plan approval requirements prior to property development or redevelopment.

circumstance on the subject property;

- That change in circumstance affects the subject property in a manner different from other properties in the vicinity because the property is "split-zoned" as described in Finding No. 2, above, and because the 1994 Comprehensive Plan Area Zoning disregarded the actual use of the property when translating from the old Zoning Code to the new Zoning Code. The impacts from the changed conditions or circumstance affect the subject property in a manner and to a degree different from the other properties in the vicinity because the other properties are not "split-zoned" and because the other properties are zoned consistent with use or potential use.
- The requested reclassification or redesignation is required in the public interest because it corrects an obvious translation error in the 1994 Area Zoning, because it recognizes the actual use of the subject property, and because it would unify one zone classification on the total one-acre site.

2. The proposed reclassification does not pose a probable significant adverse impact upon the environment. This issue was considered by the Department and reviewed by this Examiner. The Department's May 20, 1997 Determination of Non-Significance was not appealed by any public agency or interested person. The Department appropriately draws the conclusion that the lack of public comment is an indication that there is not serious public concern regarding the applicant's reclassification request.

RECOMMENDATION:

APPROVE the request of SOUTHLAND CORPORATION to reclassify the subject property to CB-P. The P-suffix conditions presently applicable to the subject property shall remain in place, unless amended by Proposed Ordinance Nos. 96-260, 96-261, and/or 96-263 (County-wide Zoning Conversion; Phase II) or by separate zone reclassification action which specifically amends the existing P-suffix conditions.

RECOMMENDED this 24th day of July, 1997.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 24th day of July, 1997, to the following parties and interested persons:

Bill Betz
US Trust Co. of California
515 South Flower Street, #2700
Los Angeles, CA 90027

Lane Premo
Southland Corporation
18000 - 72nd Avenue South, #206
Kent, WA 98032

Cedar River Water & Sewer District
18300 SE Lake Youngs Road
Renton, WA 98058

Richard Schuler
Werner & Associates
P.O. Box 66
Tacoma, WA 98401

Don Erickson
City of Renton
200 Mill Avenue South
Renton, WA 98055

Patricia Wolfson
Buck & Gordon
1011 Western Avenue, #902
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Kurt Gahnberg
The Transpo Group
14335 NE 24th Street, #201
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Greg Borba, DDES/LUSD
Marilyn Cox, DDES/LUSD
Paul Eichhorn, DDES/LUSD
Rich Hudson, DDES/LUSD
Michaelene Manion, DDES/LUSD
Lisa Pringle, DDES/LUSD
Steve Townsend, DDES/LUSD
Caroline Whalen, King County Council

Amy Kosterlitz
Attorney At Law
1011 Western Avenue, #902
Seattle, WA 98104-1097

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before August 7, 1997. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before August 14, 1997. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which

implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE JULY 17, 1997 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97RZ001 - SOUTHLAND CORPORATION:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Greg Borba, Amy Kosterlitz, and Richard Schuler.

The following exhibits were offered and entered into the record:

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|----------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit No. 1 | Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the July 17, 1997 public hearing |
| Exhibit No. 2 | Zone Reclassification Application, received January 15, 1997 |
| Exhibit No. 3 | Environmental Checklist, received January 15, 1997 |
| Exhibit No. 4 | Determination of Non-Significance, dated May 20, 1997 |
| Exhibit No. 5 | Site Plan (3 sheets), received January 15, 1997 |
| Exhibit No. 6 | King County Assessor Map showing area of proposed reclassification |
| Exhibit No. 7 | Affidavit of Posting for Notice of Application, posting date February 16, 1997 |
| Exhibit No. 8 | Affidavit of Posting for Notice of Hearing/Recommendation, posting date June 17, 1997 |
| Exhibit No. 9 | Affidavit of Publication in <u>Seattle Times</u> , published July 2, 1997 |
| Exhibit No. 10 | Certificate of Water Availability, issued September 20, 1996 |
| Exhibit No. 11 | Certificate of Sewer Availability, issued September 20, 1996 |
| Exhibit No. 12 | Traffic Assessment, dated November 5, 1996 |
| Exhibit No. 13 | DDES Rezone File No. L96RZ001 |
| Exhibit No. 14 | Four photographs (two pages) of development site |
| Exhibit No. 15 | Report of Area Residences and Businesses |

RST:gb

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